

DECISION



THE COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20541

50932

97351

FILE:

DATE: JUL 22 1975

B-183635
MATTER OF:

DIGEST:

LaGretta B. Fisher - request for submission
of claim to Congress under Meritorious Claims
Act

Employee who was demoted incident to a
reduction in force may not have action
of CSC in sustaining demotion reviewed
by the GAO. The claim is not one which
the GAO could consider under our general
claims settlement authority, and it does
not have such elements of legal liability
or equity as to warrant submission to
Congress as a meritorious claim under the
Meritorious Claims Act of 1928.

This decision results from a request by LaGretta B. Fisher
that we submit her claim for reinstatement to a GS-12 position
with the Defense Contract Administration Services District, Camden,
New Jersey, with backpay from November 1970, to Congress under
the Meritorious Claims Act of 1928, 31 U.S.C. 236.

Mrs. Fisher was demoted from a grade GS-12 to a grade GS-9
in November 1970, during a reduction in force. She appealed her
reduction in grade to the Civil Service Commission (CSC) in 1971,
and the CSC Board of Review and Appeals rendered a final decision
on the matter that year, upholding her demotion.

As to the settlement of Mrs. Fisher's claim under 28 U.S.C.
2677 this would be for consideration by the Attorney General or
his designee who may arbitrate, or settle any claim cognizable
under 28 U.S.C. 1346(b) only after the commencement of court action.

The Meritorious Claims Act provides that when a claim against
the United States is filed in this Office that may not be lawfully
adjusted by use of an appropriation previously made, but which in
our judgement contains such elements of legal liability or equity
as to be deserving of the consideration of the Congress, it shall
be submitted to the Congress with our recommendation. That remedy
is an extraordinary one and its use is limited to extraordinary
circumstances.

The cases we have reported for consideration of the Congress generally involved equitable circumstances of an unusual nature which are unlikely to constitute a recurring problem, since to report to Congress a particular case when similar equities exist or are likely to arise with respect to other claimants would constitute preferential treatment over others in similar circumstances.

We do not consider Mrs. Fisher's claim to have elements of equity of an unusual nature which are unlikely to recur. While we appreciate the unfortunate circumstances in this case, there have been numerous cases where employees have been demoted.

We have no jurisdiction to review determinations of the CSC in matters of the type here in question (B-169753, June 29, 1970). Therefore, this claim is not one which we could consider under our general claims settlement authority. Accordingly, no further action will be taken on the matter.

PAUL G. DEMBLING

For the Comptroller General
of the United States